

ORDINANCE GRANTING A
CONDITIONAL USE PERMIT (CUP) TO
ALLOW A MIDDLE THROUGH SENIOR
HIGH (6 – 12 GRADE) CHARTER
SCHOOL WITH A MAXIMUM TOTAL
ENROLLMENT OF 440 STUDENTS
PURSUANT TO HIALEAH CODE §98-
181(2)i ON PROPERTY ZONED M-1
(INDUSTRIAL DISTRICT). **PROPERTY
LOCATED AT 620 WEST 20 STREET,
HIALEAH, FLORIDA.** REPEALING
ALL ORDINANCES OR PARTS OF
ORDINANCES IN CONFLICT
HEREWITH; PROVIDING PENALTIES
FOR VIOLATION HEREOF; PROVIDING
FOR A SEVERABILITY CLAUSE; AND
PROVIDING FOR AN EFFECTIVE
DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 10, 2012, recommended approval of this ordinance; and

WHEREAS, the Petitioner proffered a declaration of restrictive covenants, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The below-described property is hereby granted a conditional use permit (CUP) to allow a middle through senior high (6 – 12 grade) charter school with a maximum total enrollment of 440 students pursuant to Hialeah Code §98-181(2)i. on property zoned M-1 (Industrial District). The property is located at 620 West 20 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

THE EAST 142 FEET OF LOT 8, IN BLOCK 1 OF BING'S RED ROAD TERMINAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, AT PAGE 13 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA TOGETHER WITH THAT CERTAIN INGRESS AND EGRESS EASEMENT OVER AND ACROSS THE WEST 6.5 FEET OF LOT 7, BLOCK 1 OF BING'S RED ROAD TERMINAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, AT PAGE 13 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants will cause a revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and associated variances.

Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 13 day of November, 2012.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Isis Garcia Martinez
Council President

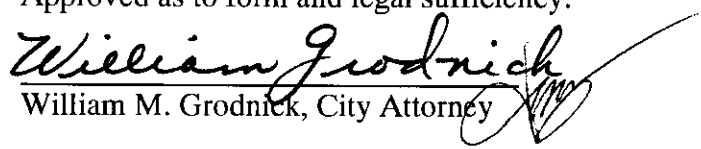
Attest:

Approved on this 15 day of Nov, 2012.


Marbelys Rubio Acting City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

SALEB\LEGISLATION\2012-ORDINANCES\620West20Street-CUP\charterschool-17/OCT10.doc

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".



CFN 2012R0887556
OR Bk 28393 Pgs 3672 - 3678; (7pgs)
RECORDED 12/11/2012 11:03:29
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:
Juan J. Mayol, Jr., Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, Florida 33131

(Space Reserved for Clerk of Court)

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions ("Declaration") is made as of the date of its execution by Lynx Holdings, LLC, a Florida limited liability company ("Owner"), in favor of the City of Hialeah, Florida, a municipal corporation of the State of Florida (the "City").

WITNESSETH

WHEREAS, the undersigned is the fee simple owner (the "Owner") of that certain property located at 620 W. 20th Street ("Property") in the City, which Property is identified by the Miami-Dade County Property Appraiser Property Folio Number 04-3013-034-0082, which is more particularly described as follows:

THE EAST 142' OF LOT 8, BLOCK 1 OF BINGS RED ROAD TERMINAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, PAGE 13 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA;

TOGETHER WITH THAT CERTAIN INGRESS AND EGRESS EASEMENT GRANTED AND CONVEYED TO GRANTOR BY THAT CERTAIN MUTUAL ACCESS EASEMENT AGREEMENT DATED JANUARY 5, 1995, AND RECORDED IN OFFICIAL RECORDS BOOK 16644, AT PAGE 842 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

THE WEST 6.5 FEET OF LOT 7, BLOCK 1 OF BINGS RED ROAD TERMINAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, PAGE 13 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

WHEREAS, the Owner filed an application with the City's Planning and Zoning Division for a conditional use permit (CUP) for the operation of a public charter school on the Property (the "Application");

*Ord
12-11-12
7*

NOW, THEREFORE, in order to assure the City that the Owner will abide by the representations made by the Owner in support of its Application, the Owner freely, voluntarily and without duress, makes the following declaration of restrictions covering and running with the Property which shall govern the Property for as long as the Property is operated as a public charter school:

1. The Property shall be developed, and the public charter school on the Property shall be established and maintained, substantially in compliance with (i) the plans submitted by the Owner as part of the Application entitled "iMater Annex: A Media Arts & Entertainment Public Charter School," as prepared by Civica, LLC, dated August 31, 2012, consisting of ten (10) sheets, including the survey and cover sheet (the "Plans") and (ii) that certain Traffic Impact Study and Accumulation Assessment prepared by Richard Garcia & Associates, Inc. for the Application, dated September 14, 2012 (the "Traffic Study"). Prior to the issuance by the City of a certificate of occupancy for the public charter school on the Property, the Owner shall construct all of the on-site improvements depicted on the Plans, unless an extension is granted by the Director of the City's Planning and Zoning Division for good cause shown.

2. Prior to the issuance by the City of a certificate of occupancy for the public charter school on the Property, the Owner shall provide the City with an academic operations plan (the "Academic Plan"). The charter school proposed on the Property is an annex to the charter school approved at 651 West 20th Street known as iMater: A Media Arts & Entertainment Public Charter School. The Property will consist of additional classroom space, as well as specialized media and entertainment studios. While every effort will be made to minimize the frequency and number of students that will cross West 20th Street to get between the main building and the annex, certain migration of students will occur during each day for academic

programmatic needs. The Academic Plan will outline such instances, as well as any other aspects of the relationship between the main building and the annex which impact student safety. Notwithstanding the foregoing, no students will cross West 20th Street between the main building and the annex during drop-off or dismissal times (as set forth in Section 6). In particular, the Academic Plan shall also disclose on an annual basis the grade level that will be permanently housed at the Property. The Owner will update the Academic Plan on an annual basis with the City.

3. Prior to the issuance by the City of a certificate of occupancy for the public charter school on the Property, the Owner shall construct on West 20th Street the proposed crosswalk to connect the main building and the annex on the Property, and any signalization required for such crosswalk, which are depicted on the Plans, unless an extension is granted by the Director of the City's Streets Department for good cause shown. The Owner shall submit plans for the improvements for review and approval by the City's Streets Department. Additionally, the Owner shall secure the approval of the Miami-Dade County Public Works Department for the improvements prior to the issuance by the City of a certificate of occupancy for the charter school on the Property.

4. The public charter school on the Property shall be limited to 440 students in grades 6th thru 12th.

5. The public charter school on the Property shall be established and maintained in accordance with the Traffic Study. The Traffic Study contemplates that all students (100%) at the public charter school on the Property are to be transported by shuttle to and from the school and the Okeechobee Metrorail Station (the "Shuttle"), as outlined in Section 6 herein. Prior to the issuance by the City of a building permit to allow improvements to the public charter school on

the Property, the Owner shall provide to the Planning and Zoning Division written evidence that it has received permission from the Miami-Dade County Transit Department to pick up and drop off students and employees at the Okeechobee Metrorail Station. In addition, to encourage the use of public transportation, the public charter school shall provide its employees a financial incentive to travel by bus or train to the Okeechobee Metrorail Station and then be transported to and from the public charter school by Shuttle. Incentives may include the payment of train/bus fare and off-street parking at the Okeechobee Metrorail Station.

6. At such time as the charter school on the Property reaches an occupancy level of 440 students, the Owner shall maintain a minimum of three (3) staggered start times and dismissal times for 440 students in grades 6 - 12 as follows:

<i>Grades</i>	<i>Number of Students</i>	<i>Commencement of Arrival</i>
11-12	130	7:30 AM
9-10	130	8:00 AM
6-8	180	8:30 AM

<i>Grades</i>	<i>Number of Students</i>	<i>Commencement of Dismissal</i>
11-12	130	2:00 PM
9-10	130	2:30 PM
6-8	180	3:00 PM

All students shall arrive at and depart from the Property on a shuttle, with no private vehicular drop off or pick up allowed. The school shall designate loading and unloading areas on the premises for the students that arrive via shuttle. Notwithstanding the staggered/start dismissal times, the Owner shall take appropriate measures to ensure, to the extent possible, passenger vehicles are not stacked in through lanes or parked in non-designated parking areas on private

property or in the public rights-of-way. No student (whether or not accompanied by an adult) or parent shall be allowed to walk or ride a bicycle to and from school. Furthermore, the Owner shall provide before and after school care in order to minimize the vehicular trips or extended stacking time for families with students in two or more start/dismissal periods.

7. Prior to the issuance by the City of a certificate of occupancy for the school, the Owner shall submit to the City a copy of the school's parent/student contract (the "Contract"). At a minimum, the Contract will contain the following conditions and rules of conduct:

A. As a condition for enrollment at the school, all students at the annex on the Property will be required to be transported to and from school by Shuttle from the Okeechobee Metrorail Station.

B. Under no circumstances will students (whether accompanied by an adult or not) be allowed to walk or ride a bicycle (whether motorized or not) to and from school on the Property.

C. As a condition to enrollment at the school, the parents/guardian and students drivers must acknowledge that they must not obstruct through lanes or park in non-designated parking areas on private property or in the public right-of-way and that no private vehicles may pick up or drop off students at the Property.

D. As a condition to continued enrollment at the school, parents or guardians and student drivers will acknowledge that the school may be subject to enforcement by the City for violation of these policies and that any such violation may result in disciplinary action against the student who is found to have violated theses policies or whose parent/guardian violates these policies.

8. Waste pick-up and deliveries for the school shall take place outside of the arrival and dismissal times.

9. That the school gates shall be opened at least 30 minutes prior to the arrival and dismissal times.

10. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its heirs, successors and assigns until such time as the same is modified, amended or released and except as set forth above, may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, said modification, amendment or release is also approved by the Mayor of the City of Hialeah, or his successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in the Hialeah Charter.

11. As a means of enforcement for any violations of these restrictions, the Owner consents to the revocation of the business tax receipt and CUP. Thereafter, the premises shall only be used pursuant to the applicable zoning district regulations.

12. Where construction has occurred pursuant to a permit issued by the City and inspection made and approval of occupancy given by the City, the same shall cause a conclusive presumption that the improvements constructed comply with the restrictions in this Declaration.

[Execution page follows]

IN WITNESS WHEREOF, we have hereunto set our hands and seals in Miami-Dade

County, this 5th day of November 2012.

Signed, sealed and delivered in the
presence of:

LYNX HOLDINGS, LLC
a Florida limited liability company,

WITNESS

Printed Name: Aliuska Leyva

WITNESS

Printed Name: Nadia M. Ramos

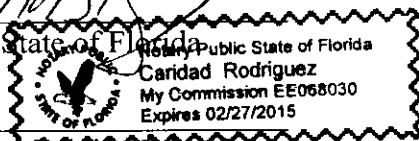
Javier C. Carbonell, Manager

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY that, on this 5th day of November, 2012, before me, an officer duly authorized in the State of Florida and in the County of Miami-Dade, to take acknowledgments, personally appeared Javier C. Carbonell, Manager of **LYNX HOLDINGS, LLC**, a Florida limited liability company, to me known to be the person described herein and who executed the foregoing instrument and that he acknowledged before me, under oath, that he executed same.

WITNESS my hand and official seal this 5th day of November, 2012.

Notary Public, State of Florida



(Name of Notary Public. Print, Stamp
or Type as Commissioned)

Personally known to me, or
Produced Identification:

Identification Produced:

☐ DID take an oath
☐ DID NOT take an oath



CFN 2012R0887556
OR Bk 28393 Pgs 3672 - 3678 (7pgs)
RECORDED 12/11/2012 11:03:29
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:
Juan J. Mayol, Jr., Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, Florida 33131

(Space Reserved for Clerk of Court)

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions ("Declaration") is made as of the date of its execution by Lynx Holdings, LLC, a Florida limited liability company ("Owner"), in favor of the City of Hialeah, Florida, a municipal corporation of the State of Florida (the "City").

WITNESSETH

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WHEREAS, the Owner filed an application with the City's Planning and Zoning Division for a conditional use permit (CUP) for the operation of a public charter school on the Property (the "Application");

Ord 12-11-1

NOW, THEREFORE, in order to assure the City that the Owner will abide by the representations made by the Owner in support of its Application, the Owner freely, voluntarily and without duress, makes the following declaration of restrictions covering and running with the Property which shall govern the Property for as long as the Property is operated as a public charter school:

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property or in the public rights-of-way. No student (whether or not accompanied by an adult) or parent shall be allowed to walk or ride a bicycle to and from school. Furthermore, the Owner shall provide before and after school care in order to minimize the vehicular trips or extended stacking time for families with students in two or more start/dismissal periods.

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10. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its heirs, successors and assigns until such time as the same is modified, amended or released and except as set forth above, may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, said modification, amendment or release is also approved by the Mayor of the City of Hialeah, or his successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in the Hialeah Charter.

11. As a means of enforcement for any violations of these restrictions, the Owner consents to the revocation of the business tax receipt and CUP. Thereafter, the premises shall only be used pursuant to the applicable zoning district regulations.

12. Where construction has occurred pursuant to a permit issued by the City and inspection made and approval of occupancy given by the City, the same shall cause a conclusive presumption that the improvements constructed comply with the restrictions in this Declaration.

[Execution page follows]

IN WITNESS WHEREOF, we have hereunto set our hands and seals in Miami-Dade

County, this 5th day of November 2012.

Signed, sealed and delivered in the
presence of:

LYNX HOLDINGS, LLC
a Florida limited liability company,

WITNESS

Printed Name: Aluska Leyva

WITNESS

Printed Name: Nadia M. Ramos

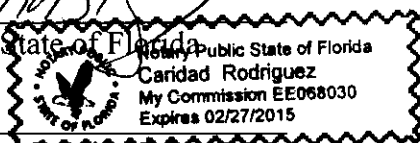
Javier C. Carbonell, Manager

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY that, on this 5th day of November, 2012, before me, an officer duly authorized in the State of Florida and in the County of Miami-Dade, to take acknowledgments, personally appeared Javier C. Carbonell, Manager of **LYNX HOLDINGS, LLC**, a Florida limited liability company, to me known to be the person described herein and who executed the foregoing instrument and that he acknowledged before me, under oath, that he executed same.

WITNESS my hand and official seal this 5th day of November, 2012.

Notary Public, State of Florida



(Name of Notary Public. Print, Stamp
or Type as Commissioned)

Personally known to me, or
Produced Identification:

Identification Produced:

☐ DID take an oath
☐ DID NOT take an oath